

04 NCAC 24D .0302 is proposed for amendment as follows:

04 NCAC 24D .0302 ADEQUACY THRESHOLD DETERMINATION

(a) The Adequacy Threshold Determination shall include:

- (1) the effect of the determination on the employer's account;
- (2) the reasons for the determination;
- (3) the date the determination was mailed or sent by electronic transmission to the employer;
- (4) instructions for protesting the determination; and
- (5) the time period within which a protest ~~must~~ shall be filed.

(b) An employer may protest its Adequacy Threshold Determination and shall file its written request with DES's ~~Tax Administration Section Claims Unit~~ by mail, facsimile, or email pursuant to ~~04 NCAC 24A .0104(n)~~ 04 NCAC 24A .0104(m).

(1) The request shall include the following:

- (A) the name of the employing unit;
- (B) the address of the employing unit;
- (C) the account number of the employing unit;
- (D) a ~~brief~~ statement of the question involved and reasons for the request; and
- (E) the name, address, and official position of the individual making the request.

(2) The written request shall be filed within 15 days after the date that the Adequacy Threshold Determination notice was ~~mailed~~ sent to the employer, and the timeliness requirements of 04 NCAC 24A .0106 shall apply.

(c) Following the written request, the ~~Tax Administration Section~~ Claims Unit shall review the employer's request for review and issue a written determination. The determination shall ~~contain the following~~:

- (1) notify the employing unit of whether its application was granted or denied; and
- ~~(2) indicate whether additional information from the employing unit is required; and~~
- ~~(3)~~ (2) explain the reasons for the ruling and what information was considered.

(d) No further right of appeal from an unfavorable written determination of a protest of an ~~adequacy threshold determination~~ Adequacy Threshold Determination shall exist unless and until an Adequacy Penalty Determination, as defined under Rule .0303 of this Section is subsequently issued at the conclusion of ~~the employer's~~ each corresponding charging ~~year~~ cycle.

History Note: Authority G.S. ~~96-4~~; 96-11.3; 96-11.4; 96-15; ~~23~~ 26 U.S.C. 3303;
Eff. July 1, 2015;
Amended Eff. October 1, 2017.